

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jeff Suntken,
Appellant,

v.

Sioux City Board of Review,
Appellee.

ORDER

Docket No. 13-107-0068
Parcel No. 467355

On December 3, 2013, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Jeff Suntken was self-represented. Attorney Jack Faith represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jeff Suntken is the owner of property located at 1506-14 George Street, Sioux City, Iowa. The real estate was classified commercial on the January 1, 2013, assessment and valued at \$93,200, allocated as \$7300 in land value and \$85,900 in improvement value. Suntken protested his assessment to the Sioux City Board of Review on the ground the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). He asserted the correct value was \$70,000. The Board of Review denied the protest. Suntken then appealed to this Board reasserting his claim.

The property record card indicates the subject is a six-family conversion. It is a two-story, frame property built in 1910. It has 2315 square feet of above-grade living area and a full basement with 450 square feet of finish. Additional features include a small covered stoop and a 520 square-foot detached garage built in 1950. The site is 0.276 acres.

Suntken submitted a multiple listing sheet (MLS) for fourteen properties to the Board of Review. He did not address all of these properties to this Board; rather, he submitted four comparable properties to this Board for consideration of his claim. The chart below provides a brief summary of Suntken's evidence.

| Address | Units | Living Area | 2013 Assessed Value | Sale Price | Sale Date | Sale Conditions |
|------------------|-------|-------------|---------------------|------------|-----------|-----------------|
| Subject | 6 | 2315 | \$93,200 | N/A | N/A | N/A |
| 512 Market St | 5 | 3685 | \$78,500 | \$39,000 | Nov-12 | Contract Sale |
| 1920 Nebraska St | 7 | 2960 | \$103,100 | \$35,000 | Mar-12 | Bank Sale |
| 1311 Jackson St | 8 | Unknown | Unknown | \$85,000 | Dec-12 | Arm's Length |
| 1607 Nebraska St | 7 | 3736 | \$77,900 | \$82,500 | Jul-04 | Arm's Length |

Suntken submitted an MLS report for 512 Market Street, 1920 Nebraska Street, and 1311 Jackson Street. He submitted a partial printout from the Sioux City Assessor's Beacon website for 1607 Nebraska Street.

512 Market Street sold for \$39,000 in November 2012. According to the MLS, the property was listed for \$45,900, and has five units with several long-term tenants. Suntken pointed out this property has 3685 square feet of living area compared to his property, which has only 2315 square feet, yet his property's assessment is higher than the sale price of this property.

1920 Nebraska Street is a seven-unit building with 2960 square feet of living area. Suntken pointed out it is 500 square feet larger than his property and it has an additional rental unit compared to his property, yet it sold for "\$58,000 under" his assessment. The MLS report indicates this property was a "fixer upper" and it was listed for \$45,000, and sold for \$35,000 in March 2012. The owner at the time of the sale was F&M Bank. Suntken acknowledged he was aware the property was a bank sale, but believes it still demonstrates his property is over-assessed.

According to the MLS report, the property at 1311 Jackson Street originally listed for \$99,950. The list price was reduced to \$89,950, and it sold for \$85,000 in December 2012. It is an eight-unit building but the size of the property is not in the record.

Lastly, the property located at 1607 Nebraska Street has seven units and 3736 square feet of living area. Suntken pointed out this property is 1500 square feet larger than his property. Yet, its assessment of \$77,900 is less than the subject property. However, we note that 1607 Nebraska Street has not sold since 2004 and therefore we do not find it relevant in determining the subject's January 1, 2013, market value.

Suntken asserts the sales he submitted, which range from \$35,000 to \$85,000, demonstrate that the subject is over-assessed. Considering these sale prices, he asserts that "on average" it demonstrates the subject is worth \$60,000. Other than providing limited information about each property, however, Suntken did not adjust any of his comparable properties for differences between them and the subject to conclude an opinion of market value as of January 1, 2013. Further, we note two of the sales, which set the lower end and sold for \$35,000 and \$39,000, sold on contract and from a bank. Two properties he submitted (1311 Jackson Street and 1607 Nebraska Street), which are identified in the record as arm's length transactions, sold for \$85,000 and \$82,500 respectively. As previously noted, the 1607 Nebraska Street sale occurred in 2004 and we found it irrelevant to a 2013 over-assessment claim. While these sales prices are lower than the subject property's assessment, they are unadjusted for differences. Suntken also pointed out that all of the properties assessed values are less than the subject's assessed value. This assertion is more of an equity claim under section 441.37(1)(a)(1), which is not before this Board.

Rochelle Lundy, a Realtor with Property Pro's in Sioux City, with eighteen years' experience, testified on behalf of Suntken. Lundy testified that she assists Suntken in finding properties to purchase with the intent of making a profit. She indicated the subject is located in the downtown area

where it is difficult to get good renters and the renters are “a little rough” on the property. She also explained that within the last year, there has been an increase in the renter pool because so many people have lost their homes; however, she still considers the market to be declining.

Lundy stated she had looked over the data Suntken provided and based on it, believes the value on his property is high. However, Lundy did not provide any of her own evidence or an opinion of the fair market value for the subject property as of January 1, 2013. For this reason, we find her testimony offers minimal relevance.

Sioux City Assessor Al Jordan testified for the Board of Review. In determining the fair market value of the subject property, Jordan explained his office considered all three approaches to value. He explained the subject property is a conversion and defined a conversion as “about a 100-year old house,” which has been converted to apartments. He further explained conversions typically have had multiple modifications over the years to accommodate different configurations and extend the economic life.

Jordan explained the cost approach was inconclusive because of the multiple modifications that are typical to this to this property type. In his opinion, the resulting functional and economic obsolescence associated with the utility of conversions as well as the location of the properties results in inconsistent and unreliable cost estimates for this property type.

Regarding the sales comparison approach, Jordan testified the sales prices for conversions vary widely for many reasons. He explained one reason is due to the financial state of the buyers and sellers; as well as the fact there is no institutional financing available for these types of properties or, if there is, it is at a very high interest rate. Further, he has found the statistics show no correlation, or very loose correlation, between sales prices and size. This Board questioned Jordan about the comparison of the sales prices of the properties offered by Suntken, which seem to be less than the assessments, and how he reconciled this with the valuation process. Jordan explained that his office

has looked at hundreds of multi-family sales, and there is no consistent unit of measurement. The properties are often in disrepair and the buyer refurbishes it to rent the units, but there are no permits. According to Jordan, this makes it impossible to figure out what sold; the motivations of the buyers and sellers; and lastly, because there is typically no market financing, there is no appraisal to consider.

Additionally, the properties vary in size, as well as in the number and type of units. Some properties may have a 300 square-foot two-bedroom unit, whereas another similar conversion may have a 1300 square-foot two-bedroom unit. Given the diversity of properties, it results in an inconsistent comparison on either a per-square-foot, or unit basis. For these reasons, Jordan's office does not rely on the sales comparison approach to value conversion properties like the subject.

Jordan asserts the best and most consistent indicator of value for this property type is the income approach. The income approach was based on a survey of income properties like the subject that was completed in 2009, 2011, and 2013 then compared to sales prices. Income and expense questionnaires were sent to all multi-family properties; including Suntken, who returned the questionnaire to the assessor's office with his property's information. The compiled results were used to arrive at the assessed valuations. Jordan explains there was very little difference between 2009 and 2013 regarding income and expenses with very little change in the market. We note that this statement conflicts with 2009 to 2013 assessments of the subject property, which have increased steadily.

Jordan explained that Suntken's income was very similar to what they found in the market. Therefore, they used Suntken's actual income because it was considered to be market rent. Suntken's expenses were a little less than what was normally seen in the market and, as a result, the market expenses were used in the income approach. For example, a market vacancy of 8% was used in the analysis, which is higher than what Suntken reported as his actual vacancy and collection loss. The resulting net operating income (NOI) was \$12,800, which is lower than the actual reported NOI.

Jordan explained the development of the capitalization rate was based on available sales and the median capitalization rate was 9.37%, which he believed was reasonable. He testified the capitalization rate was high because of the nature of the properties and the inherent risk associated with the property type. The overall capitalization rate used in the income approach was 13.74%, which includes the 4.37% effective tax rate.

$$\text{\$12,800 NOI} / 13.74\% \text{ capitalization rate} = \text{\$93, 159 (Rounded \$93,200)}$$

Jordan testified this was the same method of valuation used on all the conversions in Sioux City.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

Conversely, a sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. *Id.* If sales are not available, “other factors” may be considered in arriving at market value, including the property’s productive and earning capacity. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

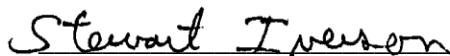
Suntken submitted four comparable properties for consideration. However, 1607 Nebraska Street sold in 2004 and we do not find it relevant to January 1, 2013, market value claim. Further, 1920 Nebraska Street was identified in the record as a bank sale, yet it was not adjusted for this factor. Lastly, Suntken did not adjust the other remaining sales for differences between them and the subject property, and he did not ultimately conclude a market value opinion as of January 1, 2013. For these reasons, we find Suntken failed to provide sufficient evidence to support a claim that his property was over-assessed.

THE APPEAL BOARD ORDERS the assessment of the Jeff Suntken’s property located at 1506-14 George Street, Sioux City, Iowa, as set by the Sioux City Board of Review is affirmed.

Dated this 13th day of January, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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